HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

W.P. No.24908 of 1998

26.6.2007

Between

N.Simhachalam ..Petitioner

AND

The Girijan Cooperative Corporation Ltd., Vishakhapatnam represented by its Vice Chairman and Managing Director and another ..Respondents

:: JUDGMENT ::

HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

-

-

W.P. No.24908 of 1998

This writ petition has been instituted seeking the following relief:

> "It is therefore prayed that this Hon'ble Court may be pleased to issue an order or direction in the nature of writ of mandamus to declare the action of the respondents in rejecting the case of the petitioner for regularization even though he is fully qualified and eligible for regularization as per G.O.Ms.No.212, Fin., and Plg., dated 22.4.1994, vide proceedings in Rc.No.6400/94 A5, dated 17.1.1998, is highly arbitrary and illegal and consequently direct the respondents to regularize the services of the petitioner as per G.O.Ms.No.212, dated 22.4.1994 with all consequential benefits of arrears of salary, seniority etc., and pass such other or further order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case".

The essential basis for the writ petition is the proceedings in Rc.No.6178/90 dated 15.5.1990 of the Vice Chairman and Managing Director of the Girijan Cooperative Corporation Limited, Vishakhapatnam. On the strength and basis of this, the present writ petition came to be instituted contesting the veracity of the statements contained in the impugned order. The Vice Chairman and Managing Director had filed a detailed counter affidavit in the matter. Dealing with

the proceedings dated 15.5.1990, the counter affidavit asserts as under:

> "The proceedings filed by the petitioner as material papers in the writ petition is a forged one and fabricated by the petitioner for the sake of filing of this writ petition. The respondent Corporation never issued such proceedings appointing/ promoting him as M.C.W. Therefore, the contention of the petitioner is totally baseless and false."

In the face of this severe indictment and when there is no material to refute the same, the petitioner is in fact liable to be prosecuted for having filed the false and fabricated material into the Court and seeking to press the same as genuine one. However, taking a lenient and compassionate view, I resist the temptation of ordering for his prosecution. The respondents have asserted that the writ petitioner was not in the service of the Corporation from the year 1994 onwards. In that view of the matter, the question of considering the issue relating to regularization of his service at this distant point of time in 2007 therefore would not arise. I therefore do not find any merit in the claim made in the writ petition and the writ petition is dismissed, but however, without costs.

_____

NOOTY RAMAMOHANA RAO.J.

26.6.2007
psr